

GOVERNMENT AND WARFARE

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Entertaining councillors of another tribe. If the councillors of a strange tribe stop at a village for the night, the local village council has charge of their entertainment. They first provide a house for the guests by expelling some childless man and his wife from their dwelling for the night. They then collect foodstuffs. Bread and all fruits, both fresh and dried, nuts, and vegetables, are assessed from rich men without payment. Meat, sugar, tea, candles, oil, pepper, butter, and poultry are purchased from members of the *bone* willing to sell them. The boys of the council buy the poultry from widows, and eggs as well, if no one brings them voluntarily. Anyone refusing to supply the bread assessed him may be fined ten *soldi* a loaf; but since no one has ever been known to refuse, the fine is purely theoretical. If in buying those articles not given, the members of the council spend more money than they have in the fine treasury, they pay the excess amount themselves, later collecting it in equal portions from all the men of the *bone* who have been married one year or over. They themselves act as cooks for the visiting councillors.

Entering council chamber unbidden. If any member of the *bone* enters the council chamber while the council is deliberating, the intruder is told to remain and is given tea. When at length he departs, a member of the council is immediately sent out to call him back. This time he is reprimanded for having entered unbidden, and is fined between two and three dollars.

Conversing with women. If a man or boy speaks to a married woman belonging to a *bone* other than his own, on the path or in any other public place, except the market, the village council of the village to which the woman belongs summons the offender and fines him five dollars. If the offender repeatedly seeks out the woman, or loiters about places she is known to frequent in order to converse with her, the village council of the offender's own *bone* fines him between fifty and sixty dollars. If the offense takes place in market it is considered more serious, and comes before the council of the great.¹ These rules do not apply to unmarried women, who may be spoken to, in a respectful manner, by anyone.

Quarrels between women. When one woman injures another with a stone, stick, or other implement, the village council collects a fine of from five to six dollars from the husband of the aggressor. The council generally hears of such cases through gossip, since the husband of the injured woman is usually too ashamed to report it.

Entering a cemetery occupied by women. If a man or boy enters a cemetery when the women of the *bone* are convening there on a Friday or holiday, he is fined five dollars.

Entering a saint's tomb occupied by women. If a man or boy enters a saint's tomb in which women are convening, the village council fines him from fifty to a hundred dollars.

Fighting with the hands. If two men fight with their hands, without using any weapon, the village council determines which man started the fight and fines him an amount commensurate with the injury done.

Speaking to an enemy. If a man is caught conversing with a member of a hostile *bone*, at a time when war is either in progress or imminent, the village council of his own *bone* fines him fifty dollars.

In the tribes and territories where there is no village council, the rendering of justice in small affairs which is the work of this body is not performed. For example, one man may cut down another's tree or take his grass without any fine or other official reckoning; he can likewise speak to a woman of another *bone*; but if he does these things he incurs the wrath

¹ See below. p. 102.

4. QANUN OF THE JAMA'A OF IMHAWLEN³¹ (AITH WARYAGHAR):

A) Qanun:

692 Praise be to God. Those of the jama'a of Imhawlen appeared
621 for judgment in front of both the undersigned notaries, and presented
614 themselves to us: al-Hajj Shu'aib; Muhammad bin Muhammad bin Misa'ud
695 and his brother Muhammadi; Qaddur bin ask-Shaikh Muhammad bin 'Abd
as-Salam and his brother Muhammad; al-Muqaddam Muhammadi bin Muhammad
bin Ahmad and his brother 'Allush; 'Abdallah bin al-Hasan; Muhammad
bin 'Azzuz; Hammu bin Muhammad bin 'Ali and his uncle Shu'aib bin
Shu'aib; Muhammad bin Muhammad bin Muhammad bin Musa; Muhammad bin
Muhammad bin Ahmad bin al-Hasan; Muhammadi Amzzyan; Awlad al-Muqaddam
Shu'aib bin Muhammad bin Shu'aib and their brother Hammu; Muhammadi
bin al-Muqaddam and his brother 'Umar^{83A}, and their brother Hammu.

692 All these persons are of the jama'a of Imhawlen, and all appeared for
692 judgment (at the present act), agreeing in behalf of what is good and
693 advantageous to the making of the agreement, with respect to the
hannash (evil doers; also snake charmers), to robberies and all acts
of lowliness and ignominy (Blanco: note a).

685 In case any thief or smuggler should be caught in flagrante
687 delicto, he must pay 10 mithqals in money (Blanco: note b).

695 Regarding the above, the interested parties testified. The
Murabit Si Muhammad Dardushi and the Murabit Muhammad bin 'Abd al-Qadir
784 al-'Azizi attended the present act with them. Whoever changes or
alters this agreement must answer to God, who shall decree his punish-
ment. Those who commit misdeeds (on earth) shall know the change in
the other life (Blanco: note c).

A, ["83" apparently does not refer to any footnote here and
^ therefore should be disregarded--Analyst]

000 they are obliged to assemble in order to keep them down. Furthermore,
431 we may see the alarming case in which the commercial transactions of
556 some individuals with the Island of al-Husaima undergo a considerable
152 increase; their gains, fabulously augmented through envy and general
misery, permit their rivals to throw doubts and suspicion on the real
origin of their opulence; having no other source of wealth, the latter
impute frightful treacheries to them. Perhaps a bloodfeud or an
628 accusation deprived more than one Amhaw (sing. of Imhawren) of a large
197 Spanish pension from the above island³⁴.....All this and the constant
613 inter-lineage hatreds charged the atmosphere in such a way that some-
623 body had the idea, eagerly grasped by the rest, to hold a meeting in
order to put an end to such a calamitous state of affairs.

623 When the date is established and has arrived, the meeting is
held, without discussion of anything other than details, for in the
preparatory work, as we have said, the participants have already
reached the stage of assembling their criteria. There is no delay in
expressing whatever must be considered a crime, nor even in the type
and importance of the punishment, for as all of them committed sins or
hoped for an occasion to do so, they had to establish a moderate punish-
ment under a savage exterior, and, above all, a guarantee of not be-
coming enveloped in bloodfeuds.

623 For this reason, the popular assembly makes a collective and
689 graphic insult (Blanco: note b, in text), although afterwards this is
685 limited to a fine (Blanco" note c, in text) of fairly sizeable propor-
tions which is imposed upon the smuggler and informer from al-Husaima
Island or on a thief, in place of exterminating him. Thus public

623 Thus public
182 esteem and the ideas which such deeds provoke in others are regained;
673 they satisfy the mass of the people without having to resort to cru-
687 elty, for.....in a truly humane feeling, note c in the text shows that
695 the author of the crime must have been caught in flagrante delicto.

629 Discounting possible vengeance and not very sure of having succeeded in
623 doing so, note e in the text shows the institution of a popular tri-
554 bunal formed by two neutral individuals, two men who neither take part
671 in the agreement nor are members of the jma'th, but the fact that they
have prestige in it is a maximum guarantee of the workability of the
qanun in question.

623 Furthermore, the jma'th as a social unit is personified not in
621 its mqaddim, in the Arab manner, but, hostile to personal power, in a
triumvirate formed by three of the legislators who took part in the
meeting and who remain obligated to watch over the fulfillment of the
agreement. This executive organ of power is made up of laymen, and it
as much as the aforementioned tribunal is the result of popular election.

691 In the few lines which this qanun has, aside from creating a
624 a code, a tribunal and a police force, all of which are, naturally,
182 gratuitous, it creates a rural exchequer, and all this with a good,
natural and admirable feeling.

182 It restricts, through fear of fines, damages to the small social
691 unit it represents by guaranteeing the safety of property and discard-
626 ing cravings for economic expansion at the expense of member lineages.³⁵
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691 It creates lineage authorities whose jobs are gratuitous, and,
613 always suspicious, it avoids concentration of power in the hands of one
661 person, a fact which permits neither a shade of tyranny by the latter
182 nor a bastardization of his office.

682 limits of his land (i.e. within the limits of the clan territory of the
Bani 'Abdallah) shall pay (a fine of) 2000 duros; (this shall be the
fine) if he committed the deed alone; but if several (men) committed
it, each one (shall pay a fine of) 2000 duros. Whoever should take
687 justice into his own hands (literally, "ransacking to collect a debt")
683 shall pay 50 duros, and the same for whoever should attack another on
689 the path. Whoever should provoke an incident in the market (shall pay)
10 duros.

683 (Blanco: note d) Whoever should unsheath a dagger, making it
glitter, with intent to attack (literally, "injure"), shall pay 5 duros.
Whoever should wound the head of another with stones (shall pay) 5
duros. Whoever should attack another with a stick, causing blood to
flow and provoking a scandal, (shall pay) 15 duros, and if he should
not cause blood to flow, (he shall pay) 10 duros.

613 (Blanco: note e) Whoever should come to the defense of one of
681 his brothers (i.e. agnates) or of any other person, as is customary
among those of the same party (i.e. same lineage), (shall pay) 5 duros.

681 (Blanco: note f) No request (for pardon) shall be listened to,
nor shall mercy be granted to any of those who have incurred the above
(punishments).

805 (Blanco: note g) For the application of what has been made
443 manifest above, it shall be considered that Tuesday begins at dawn and
ends with the sunset; this is to apply to them (those of the Bani 'Ab-
dallah) and for strangers (regarding the application of the above),
market (day) shall be considered as having a duration of three days.

695 With regard to the above, the testimony (which both 'udul)
693 registered took place, the witnesses being in a perfect state of legal

000 the proportion, in context, of the fines.

671 There are no offenses against the form of government, nor
687 against religion; more aptly put, there is no need to invent such
688 offenses, nor, by the same token, any punishment for them, because
184 all are agreed in such questions: republic and Islam.

184 This unanimity of opinion among the different groups of legis-
614 lators in the diverse clans of the tribe proves to us their (relative)
619 independence, and this is one of the ties which gives the tribe its
671 form.⁸¹ It is clear that if individuals and families respond to a
602 private common law, the associations of these kin groups, the (uni-
linear) principles which link them together, and their common law
could not be very different, given their proximity (i.e. to each other).

671 These qanuns, which are the most outstanding signs of the
614 rudimentary (sic) common or public law of the Rifians, reveal to us
and define better than any other consideration (i.e. aspect of Rifian
life, or institution) the reality and importance of that social unit,
the clan, both a truly independent state and the ancient fatherland
(patria) of the Rifian; and the whole of this, the ensemble⁸², explains
the Rifians' capacity for resistance in the struggle against any in-
vader through the multiple compartmented monopolies (i.e. clans), each
of which was opposed to the other, at the same time as it showed im-
potence and weakness to the outside (world).

671 These lay and democratic laws, full of suggestions, show the
619 Rif to be a land of custom, forming, as Montagne shows so clearly for
181 other Berber groups⁸³, a mosaic of minute independent republics, in
opposition to the Moroccan Empire, with its rigid sharifian organiza-
tion and administrative framework of qa'ids; for the qa'id is, as we

5: Blanco Izaga G-4,5 (1914-1945) 1975 MX3 Rif MX3
Senhaja MX4
Aith Siddat

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562 toward women and the extortion which they conducted at all times
with nobility and without wickedness.

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673 On the other hand, we see that in contrast to their fellows
of Aith Waryaghar, they neither list in detail nor excoriate cases
of theft, a fact which might give rise to the notion that, among them,
such actions were no longer considered pernicious. This is not the
case at all. Poorer than the Aith Waryaghar, the Aith Siddat must
preserve their property with greater zeal, from whence the right of
legitimate defense against the aggressor who would try to seize some-
thing from them in a field or path, and the right to kill anyone who
should penetrate their houses, the only place where they guard their
possessions.⁹³

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291 The picking of fruit or vegetables in a field or garden in
order that a poor man might eat has never been considered an offense
by the Rifian, who puts waterjugs along the mountain paths for the
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443 thirsty traveler. In addition, the border market of the Aith Siddat
491 and the fact that their geographical location lacks commercial roads
671 are the reasons which, in our opinion, can explain the apparent over-
sight in listing actions which it is everywhere else desirable to curb.

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648 10. EXAMPLE OF A LIFF⁹⁴ BETWEEN TWO TRIBES (BNI BU FRAH AND BNI GMIL):⁹⁵

A) Qanun:

Praise be to God. In the presence of the witness instrumental
to the present act and on the day of the date (below) in Dar al-Zikhliif,
there appeared for judgment in front of the above notary certain deter-
mined members of the Awlad Sa'id of Bani Bu Frah, of the Awlad Ghadura
and Muhammad bin al-'Arbi and his allies on the side of their brothers,

5: Blanco Izaga G-4,5 (1914-1945) 1975 MX3 Rif MX3
Senhaja MX4
Aith Siddat

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the people of Bani Dar al-Zikhlif, the people of Agni, the people of
the Awlad al-Hamdi ibn al-Qadi of Qubi'a, the people of Iharumen, the
people of Igzinnayen⁹⁶ and the people of Bani Gmil, all agreeing among
themselves, with respect to the defense of the border, (to impose) a
fine of 2000 duros upon any of those mentioned who, in case of war
in Dar al-Zikhlif, should flee through negligence (at a time when
cooperation in border defense is needed) or should even proceed with
cunning (in order not to fulfill the agreement), for which he shall
pay the sum mentioned earlier in the present document.

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The allies of Muhammad bin al-'Arbi and the Awlad Ghadura
who flee back to their homes in Dar al-Zikhlif shall pay the above
amount to each one of the clans. A sum shall be levied from their
hands by those indicated in the earlier part of the present document.
Those of both clans mentioned who would appear for judgment in the
act and combat against their own (people) remain exempt from pay-
ment⁹⁷, (the justification of) this procedure being that it is the
only way to impose brotherhood and unity, and to cause extralimitation
against them to cease.

000 He who attended the present agreement with both parties and
heard from them what was agreed upon extended this to the requirement
of those who solicited it.

At the end of the divine month of Rajab al-Fard of the year
1336 (May 9, 1918).

Servant of his God, (illegible).--(Signature).

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B) Commentary:

The above qanun, as a perusal of it indicates, represents an

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648 in the tribal political organization and entangle it badly, a tribe which up to now appears to be the least clear or tangible of all those studied and known so far.¹⁰⁵

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[829] As European states do, this document imposes a public duty upon the natives of the territory, for they must defend their tribal lands with their weapons in their hands; and it even includes punishment for anyone who shrinks from staying in the danger zone. While, [682]
[443] however, among Europeans such a punishment is moderate, we see that among Rifians, by the importance of the fine (2000 duros) the penalty is as high as that for murder (i.e. in the market), for this amount is equal to that stipulated as ddiyith¹⁰⁶ in two qanuns already examined, that of Aith 'Abdallah and that of Aith 'Adhiya.

Thus, then, an offense against patriotism constitutes a crime in itself, and it is sanctioned analogously upon the coward and deserter as homicide is upon the murderer.

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671 This may explain the virtues, such as courage and hospitality which we have so frequently seen attributed to the Rifians; for it was precisely their clear-cut laws and rude (i.e. rough and ready) custom which urged them on, stimulated them (see the qanun of the jma'th of Thamasind for hospitality) and which perforce they practiced.¹⁰⁷

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[702] 11. A QANUN OF HARKA--AITH WARYAGHAR:

It is obligatory for all the qa'ids and members of a harka that each one of them must present himself in fixed turns, which each one must take without losing a day. Whoever does not obey this order, except in the following cases, such as illness¹⁰⁸, and nobody may go on leave during his turn without authorization from the kabir al-ma-halla.¹⁰⁹